



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 24, 1996

Mr. Richard J. Ybarra  
Assistant Attorney General  
General Counsel Division  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR96-1748

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26836.

The Office of the Attorney General has received several requests for all records relating to the investigation of Hospital Corporation of America. You have provided to the requestors certain records that are responsive to the requests. You claim, among other things, that section 552.111 of the Government Code excepts the remaining records from required public disclosure.

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This exception encompasses attorney work product created for litigation that tends to reveal an attorney's mental processes, conclusions, and legal theories. Open Records Decision No. 647 (1996). Moreover, when a person requests the entire litigation file of an attorney, the individual records in the file may be withheld under section 552.111. *Id.*

We have examined the records submitted for our review. These records may be the work product of an attorney created in anticipation of litigation. We are returning the records to you to determine whether these records fall within the test articulated in Open Records Decision No. 647(1996) to withhold attorney work product under section 552.111. If you so determine, you may withhold the records under section 552.111.<sup>1</sup>

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<sup>1</sup>The records submitted for our review contain information that may be protected from disclosure under section 552.101 of the Government Code. If you determine that section 552.111 does not except this (continued...)

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID#26836

Enclosures: Submitted documents

cc: Mr. Joseph Giovanniello, Jr.  
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<sup>1</sup>(...continued)

information from disclosure, we urge you to exercise caution before releasing confidential information. See Gov't Code § 552.352 (providing penalties for improper release of confidential information).